

LISTING OF CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application.

1-13. (Canceled)

14. (Previously Amended) A surgical apparatus as claimed in claim 32, wherein the tissue stimulation element comprises a stimulation electrode.

15-16 (Canceled).

17. (Previously Amended) A surgical apparatus as claimed in claim 33, wherein the tissue stimulation element comprises a stimulation electrode.

18. (Canceled).

19. (Previously Amended) A surgical apparatus as claimed in claim 33, wherein the anchor includes a flexible carrier.

20. (Original) A surgical apparatus as claimed in claim 19, the flexible carrier is non-linear when in a relaxed state.

21-31. (Canceled)

32. (Currently Amended) A surgical apparatus for use with a tissue structure, comprising:

a tissue stimulation element having a diameter of about 0.5mm to 1.0mm and being configured to emit non-ablative stimulation energy that is applied to the tissue structure to determine whether a transmural myocardial lesion has been formed, wherein a size of the tissue stimulation element is too small to form a transmural myocardial lesion; and

means, associated with the tissue stimulation element, for securing the surgical apparatus to the tissue structure by engaging a single side of the tissue structure at a first tissue structure location and pressing the stimulation element against the single side of the tissue structure at a second tissue structure location different than the first tissue structure location, wherein the stimulation element does not have a sharpened end and is positioned relative to the means for securing the surgical apparatus to the tissue structure such that the ~~without the~~ tissue stimulation element is pressed against the single side of the tissue structure and does not pierce ~~piercing~~ the tissue structure.

33. (Currently Amended) A surgical apparatus for use with a tissue, comprising:

a tissue stimulation element having a diameter of about 0.5mm to 1.0mm and being configured to emit non-ablative stimulation energy that is applied to the tissue to determine whether a transmural myocardial lesion has been formed, wherein a size of the tissue stimulation element is too small to form a transmural myocardial lesion; and

an anchor carrying the tissue stimulation element, the anchor being configured to secure the surgical apparatus to the tissue by piercing the tissue at a first location and to press the stimulation element against the tissue at a second location different than the first location, wherein the stimulation element does not have a sharpened end and is positioned relative to a portion of the anchor that pierces tissue such that the ~~without the~~ tissue stimulation element is pressed against the tissue and does not pierce ~~piercing~~ the tissue.

34. (Currently Amended) A surgical apparatus for use with a tissue surface, comprising:

a first tissue stimulation element and a second tissue stimulation elements that are configured to emit non-ablative stimulation energy that is applied to the tissue surface to determine whether a transmural myocardial lesion has been formed;

a flexible carrier movable between an unstressed state and a deflected and stressed state and including a first end portion that carries the first tissue stimulation element, a second end portion that carries the second tissue stimulation element, and a curved interior portion located between the first and second end portions and configured such that the curved interior portion will be in spaced relation to the tissue surface when the end portions are in contact with the tissue surface and the carrier is in the unstressed state, wherein the carrier is configured to press the first tissue stimulation element and the second tissue stimulation element against the tissue surface when in the deflected and stressed state, wherein the first stimulation element and the second stimulation element do not have sharpened ends such that the first stimulation element and the second stimulation element are pressed against the tissue surface without the first tissue stimulation element and the second tissue stimulation element piercing the tissue surface; and

a tissue engagement device carried by the curved interior portion of the carrier between the first and second tissue stimulation elements and configured to secure the carrier to the tissue surface in the deflected and stressed state.

35. (Canceled).

36. (Previously Presented) A surgical apparatus as claimed in claim 34, wherein the tissue engagement device is configured to hold the curved interior portion of the carrier substantially against the tissue surface.

37. (Currently Amended) A surgical apparatus as claimed in claim 34, wherein the tissue engagement device comprises a first tissue piercing member and a second tissue piercing member~~members~~].

38. (Withdrawn) A surgical apparatus as claimed in claim 34, wherein the tissue engagement device comprises a helical tissue piercing member.

39. (Canceled).

40. (Previously Amended) A surgical apparatus as claimed in claim 34, wherein the first and second tissue stimulation elements comprises a first stimulation electrode and a second stimulation electrodes.

41. (Previously Amended) A surgical apparatus as claimed in claim 34, the first tissue stimulation element and the second tissue stimulation elements each having a diameter of about 0.5mm to 1.0mm in diameter, wherein a size of each tissue stimulation element is too small to form a transmural myocardial lesion.

42. (Currently Amended) The surgical apparatus of claim 34, the tissue engagement device having a sharpened end for piercing the tissue surface.

43-44. (Canceled)

45. (Currently Amended) The surgical apparatus of claim 32, wherein the means for securing the surgical apparatus to the tissue structure is configured to pierce a single side of the tissue structure and to press the stimulation element against the single side of the tissue structure without the tissue stimulation element piercing the tissue structure.

46. (Currently Amended) The surgical apparatus of claim 33, further comprising
a second tissue stimulation element carried by the anchor, the second tissue stimulation element having a diameter of about 0.5mm to 1.0mm and being configured to emit stimulation energy that is applied to the tissue, wherein a size of the tissue stimulation element is too small to form a transmural myocardial lesion.

47. (Previously Presented) The surgical apparatus of claim 46, the anchor being configured to pierce the tissue and to press the first stimulation element and the second stimulation element

against the tissue without the first stimulation element and the second tissue stimulation element piercing the tissue.

48. (Previously Presented) The surgical apparatus of claim 33, wherein the first stimulation element and the second stimulation element are carried by opposite end portions of the anchor.

49. (Canceled)

50. (Currently Amended) The surgical apparatus of claim 34, wherein the flexible carrier is configured to pierce the tissue and press the first stimulation element and the second stimulation element against the tissue surface without the first tissue stimulation element and the second stimulation element piercing the tissue surface.

51. (New) The surgical apparatus of claim 33, the anchor comprising a central portion, a first end portion and a second end portion on opposite ends of the central portion, wherein the central portion of the anchor is configured to pierce the tissue, and the tissue stimulation element is located on one of the first and second end portions.